



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 04608-99
7 March 2000

LCDR [REDACTED] NR
[REDACTED]
[REDACTED]

Dear Command [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 23 November 1999, 20 December 1999 and 6 January 2000, copies of which are attached. The Board also considered your letters dated 13 and 28 February 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions in concluding your failures by the Fiscal Year (FY) 97 and 98 Line Lieutenant Commander Selection Boards should stand. Since the Board found insufficient basis to remove your failures of selection for promotion while on active duty in the Regular Navy, they had no grounds to backdate your promotion to lieutenant commander while on inactive duty in the Naval Reserve to reflect you were selected by the FY 97 Line Lieutenant Commander Selection Board, set aside your discharge from the Regular Navy on 1 May 1998, or reinstate you to active duty. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

VIA: Assistant for BCNR Matters, Pers-00ZCB

FROM: [REDACTED]
Director, Aviation Officer Distribution, PERS-43
Prepared by [REDACTED]

SUBJECT: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE
OF LIEUTENANT [REDACTED]

REF: (a) BCNR File [REDACTED]

ENCL: (1) Personnel Correspondence of 18 Sept 1991
(2) Personnel Correspondence of 04 Feb 1994
(3) Personnel Correspondence of 15 Dec 1994

PURPOSE: To review BCNR File 04608-99, Lieutenant [REDACTED]

DISCUSSION: Lieutenant [REDACTED] requesting a reversal of his non-selection to Lieutenant Commander due to bias in the promotion system which denied equal opportunity to aviation officers assigned to recruiting duty. Additionally, [REDACTED] requests reinstatement on active duty, back pay and allowances as well as credit for time in grade for pay, promotion and retirement purposes.

BACKGROUND: [REDACTED] claims he was forced into recruiting duty, not allowed to do a split-tour, and unable to fly as a result of the disestablishment of the T-34B program at NRD Omaha, NE. Therefore, he claims his record was perceived by the promotion board as "non-competitive" for Lieutenant Commander.

After thoroughly reviewing BCNR File [REDACTED], the following assessment is offered:

[REDACTED] failed to select to LCDR as a result of a mediocre first tour at Hellsprong Eight (HC-8). Ref (a), depicts average first tour fitness reports from 1 Sept 1990 through 2 Apr 1992. This conclusion is based on the fact that [REDACTED] failed to "break-out" numerically when ranked competitively against his peers.

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2. On 7 July 1993, [REDACTED] requested a split-tour while at NRD Omaha, NE in order to pursue a graduate degree at the Naval Postgraduate School, Monterey, CA. This request is not consistent with his concern, as stated in Ref (a), that a lack of flight time, after the disestablishment of the T-34B program, would make him less competitive for Lieutenant Commander. BUPERS denied this request in Sept 1993, based on two criteria: first, the OFFTRANSMAN 16.043 requires the new assignment to be at the same geographic location as the present duty station and second, two years of "not-observed" fitness reports at the Naval Post Graduate School, following a mediocre first sea tour, would not be career enhancing.

3. Detailer Personal Notes (PRSN) retrieved from the OAIS computer system between Dec 1990 – Feb 1995, revealed the following:

[REDACTED] was not "forced" into recruiting. His first choice of a NROTC Unit was not available but he was offered flying orders at various Naval Air Stations (encl 1).

b. While at NRD Omaha [REDACTED] was given ample opportunity to adjust his PRD and either go back to a flying tour (HC-5) or take shipboard orders (encl 2/3). LT [REDACTED] apprehension in accepting either set of orders and the subsequent delay in his submission of a PRD adjustment made detailing him extremely challenging and thereby put him outside the optimum detailing window for the previous mentioned orders.

c. [REDACTED] claim that only 26% of eligible LT's on recruiting duty (between FY 95-99) were selected for LCDR is misleading. A fair assessment of each eligible officer and their promotability cannot be made without reviewing each individual record. Therefore, the fact that only 10 LT's on recruiting duty were selected for LCDR is not based on a complete and accurate assessment of all the facts.

RECOMMENDATIONS:

After carefully reviewing BCNR File 04608-99, I do not [REDACTED] been unfairly treated by the promotion system and therefore I do not recommend a reversal of his non-selection status.



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

4608-99

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PERS-61/149
20 Dec 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
LIEUTENANT [REDACTED]

Ref: (a) PERS-00ZCB memo 5420 of 23 Nov 99
(b) OPNAVINST 5354.1D Navy EO Manual

Encl: (1) BCNR File 04608-99
(2) PERS-43 memo undated

1. Reference (a) requested an advisory opinion in response to Lieutenant [REDACTED] request to reverse his non-selection to Lieutenant Commander. Enclosure (1) is returned.

2. Lieutenant [REDACTED] alleges that he was not selected to Lieutenant Commander because of bias in the promotion system that denied equal opportunity to aviators assigned to recruiting duty. I will defer to enclosure (2) which provides pertinent detailer notes. In addition to average first tour fitness reports at HELSUPPRON Eight (HC-8), Lieutenant [REDACTED] was ranked in the middle of the pack on his first fitrep from the CO of the USS CARL VINSON (CVN 70). It also appears that his original priority was to get a masters degree at his first opportunity. In his first request to leave recruiting duty, he requested to go to Post Graduate School, not to a flying billet. Enclosure (2) also noted he was given other options other than recruiting duty.

3. It is my opinion that Lieutenant [REDACTED] does not prove his case of bias in accordance with reference (b). I recommend his record remain unchanged.

[REDACTED]
Director, Professional
Relationships Division
(PERS-61)

